

**Cook Inlet NPDES General Permit Litigation**  
**Briefing for Bob Sussman on Litigation Risks and Status of Settlement Negotiations**  
**May 13, 2009**

**Purpose of Briefing**

- Discuss legal risks involved in Ninth Circuit litigation involving challenge by environmental and tribal groups to EPA-issued general permit for oil and gas facilities in Cook Inlet, Alaska
- Discuss key settlement options provided by petitioners
- Obtain direction on how to proceed if petitioners reject our settlement offer
- Note: **EPA brief is due June 1, 2009.**

**Background**

- On June 13, 2007, Trustees for Alaska filed a Petition for Review of the Cook Inlet General Permit (for oil and gas exploration, development and production facilities in Cook Inlet, Alaska) in the Ninth Circuit Court of Appeals on behalf of two Alaskan Native Villages, an environmental group and two fishing organizations (“Petitioners”).
- The permit went into effect on July 2, 2007. It expires on July 2, 2012.
  - Permit contains technology-based effluent limits based on national regulation (effluent limitation guideline or “ELG”) for coastal oil and gas facilities. The ELG requires zero discharge for all facilities nationwide – except for those in Cook Inlet, which are subject to less stringent limits.
  - Permit also contains additional revised water quality-based effluent limits (“WQBELs”) for certain pollutants where necessary to meet applicable State water quality standards. These limits are based on “mixing zones” established by the State (areas in which receiving water may exceed standards). The mixing zones in this permit are larger than in the previous permit, thus some of the WQBELs in the reissued permit are less stringent than in the previous permit.
- (b) (5) [REDACTED]
- Petitioners have filed their opening brief. At EPA’s request, Petitioners agreed to stay the litigation to allow for further settlement discussion. EPA’s brief is now due on June 1, 2009. The court has indicated that any further extension would be strongly disfavored.
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